



The Commonwealth of Massachusetts

Registry of Deeds

Hampden District

Hall of Justice, 50 State Street • Post Office 559
Springfield, Massachusetts 01102-0559

A division of the Secretary of the Commonwealth
William Francis Galvin, Secretary

Donald E. Ashe

Register of Deeds

Tel (413) 755-1722 / 784-0479

Fax (413) 731-8190

Enclosed are a copy of the Massachusetts Homestead Statutes and a copy of the Declaration of Homestead Form for you to fill out.

The age of the applicant(s) determines which line should be filled out, and **only one line may be used. Spouses may apply together only if they are both over 62 years of age.** If one or both spouses are under age 62, only one person may file.

Questions regarding the interpretation of the law or its effect on your property should be addressed to an attorney.

DIRECTIONS FOR FILING DECLARATION OF HOMESTEAD FORM

1. Complete the form, entering the previous owner's name, date, book, and page or certificate of title number as it appears on your deed. The form must be signed in front of a Notary Public. If you have any questions, you may call the Registry of Deeds at 784-0479, 9:00 a.m. to 4:00 p.m. Please be sure to have your homestead form in front of you.
2. If you own a mobile home, you may file with the city or town clerk's office in which you live.
3. **The filing fee is \$35.00.** The Hampden County Registry of Deeds accepts cash, bank checks and money orders. **PERSONAL CHECKS WILL NOT BE ACCEPTED.** Your homestead may be recorded in person, or you may send your completed homestead form and correct filing fee to:
**Hampden County Registry of Deeds
50 State Street
Springfield, MA 01103**
4. You should receive your original homestead form in the mail within two months from the filing date. However, if your property is registered with the Land Court Department, your homestead form will stay in the Registry of Deeds as a permanent record. You may obtain a certified copy at any time for a fee of \$1.00 per page.
5. You may download the information and form for the Homestead Act from our website at [HTTP://www.registryofdeeds.co.hampden.ma.us.com](http://www.registryofdeeds.co.hampden.ma.us.com). You may address e-mail to us at hampden@sec.state.ma.us.

Very truly yours,

Donald E. Ashe
Register of Deeds

(Updated March 5, 2003)

e-mail: hampden@sec.state.ma.us
website: www.registryofdeeds.co.hampden.ma.us

DECLARATION OF HOMESTEAD
HAMPDEN COUNTY REGISTRY OF DEEDS
DONALD E ASHE, Register

I/We _____
(applicants must be OVER 62 years of age or disabled)

I _____
(one name only if UNDER 62 years of age)

Owning and residing at _____
(street address)

in _____, Hampden County, Massachusetts,
(City)

Acquired via:

☐ Inheritance from _____ Probate No. _____
(Previous owner)

☐ Deed from _____ Dated _____
(Previous owner)

And recorded in the Registry of Deeds Book _____ Page _____

☐ Or as Certificate of Title # _____ (if recorded in the Land Court Dept.)

Hereby declare that I/We hold said real estate as a homestead under the provisions of Chapter 188, sections 1 or 1A of the General Laws of Massachusetts and expressly reserving the right to myself (and my spouse) or to the survivor of us, or our legal representatives, to revoke and rescind this Homestead as to ourselves and to the rights of our minor, unmarried children.

The remainder of this form shall be completed in the presence of a Notary Public.

Witness my/our hand(s) and seal(s) this _____ day of _____, 20 _____

Signature(s): _____

COMMONWEALTH OF MASSACHUSETTS _____, ss.,

On this _____ day of _____ 20 _____, before me, the undersigned notary public, personally appeared

The above-named,

Proved to me through satisfactory evidence of identification, which was/were, _____

To be the person(s) whose name(s) is/are signed on this document in my presence,
and acknowledged the foregoing to be his/her/their free act and deed before me.

, Notary Public

My commission expires: _____

HAMPDEN COUNTY REGISTRY OF DEEDS
DONALD E ASHE, REGISTER

HOMESTEAD PROTECTION FOR ELDERLY
AND DISABLED PERSONS

A. WHAT IS HOMESTEAD PROTECTION?

In Massachusetts, an estate of Homestead is an interest in real property designed to protect the possession and enjoyment of the owner or the owner's surviving spouse against the claims of creditors by protecting the property from execution and forced sale, so long as such person occupies or intends to occupy such property as his or her principal place of residence. M.G.L. c. 188, ss. 1-10. *Amended in Chapter 174 of the Acts of 2000.*

B. HOW MANY TYPES OF HOMESTEAD ARE AVAILABLE?

There are two types of Homestead: Regular Homestead and Elderly and Disabled Person's Homestead protection:

1. THE SO-CALLED REGULAR HOMESTEAD: M.G.L c. 188 s. 1., AS AMENDED BY SECTION 1 OF CHAPTER 174 OF THE ACTS OF 2000

The regular Homestead allows an owner of real estate, whether owned as a sole owner, joint tenant, tenant by the entirety, or tenant in common, to claim homestead protection to the value of \$300,000 in a principal residence. Prior to the 1989 amendments to Chapter 188, the declarant was required to have a "family" in order to claim this homestead protection. Effective with the November 1, 1989 enactment of Chapter 475 of the Acts of 1989, "for the purposes of this chapter, the word family should include either a parent and child or children, a husband and wife and their children, if any, or a sole owner." Thus, a single person who is the sole owner of a primary residence may now claim homestead protection to the extent of \$300,000 even if he or she does not have a family. (*The entitlement to \$300,000 coverage is effective November 2, 2000 as stated in the amendment to Section 1 of Chapter 188 of the General Laws, as appears in Chapter 174 of the Acts of 2000.*)

2. THE ELDERLY AND DISABLED PERSON'S HOMESTEAD: M.G.L C. 188, AS AMENDED BY SECTION 2 OF CHAPTER 475 OF THE ACTS OF 1989, AS FURTHER AMENDED BY SECTION 2 OF CHAPTER 174 OF THE ACTS OF 2000.

Section 1A. The real property or mobile home of persons sixty-two years of age or older, regardless of marital status, or of a disabled person or persons, as herein defined, shall be protected against attachment, seizure or execution of judgment to the extent of \$300,000; provided, however, that such person has filed an elderly or disabled person's declaration of homestead protection as provided in section two; and provided, further, that such person occupies or intends to occupy such real property or mobile home as his principal residence. A disabled person's declaration of homestead protection shall be accompanied by either of the documents referred to in the second paragraph of this section. (*The entitlement to \$300,000 coverage is effective November 2, 2000 as stated in the amendment to Section 2,1A of Chapter 188 of the General Laws, as appears in Chapter 174 of the Acts of 2000.*)

C. How is an Elderly Person's Homestead Created?

1. The fact that the property is to be subject to an Elderly or Disabled Person's Homestead should be set forth in the deed of conveyance in which the property is acquired. If the property is to be designated as a homestead after it has been acquired, then a Declaration of Homestead as an elderly or disabled person must be recorded in the Registry of Deeds for the county or district in which the land is located. A recitation of the elderly person's age in the Declaration of Homestead should be sufficient to meet the age test.

2. A Homestead for the disabled person has different filing requirements. Under the 1989 amendments a disabled person must record either of the following documents with his or her Declaration of Homestead:
 - (a) an "original" or certified copy of a disability award letter issued to the person by the United States Social Security Administration: or
 - (b) a "letter" signed by a licensed physician registered with the Massachusetts Board of Registration in Medicine certifying that the person meets the disability requirements of 42 USC 1382c(a) (3) (A) and (C) which may exist at the time of the filing" of the Declaration of Homestead.
3. Under a provision in the 2000 amendments, anyone who filed a Declaration of Homestead as an elderly or disabled person prior to the effective date of the 200 amendments (which increased the exemption from \$200,000 to \$300,000) shall be deemed to have filed under the new amendments. The provisions under Section 3 of the Chapter 174 of the Acts of 2000, states that *"This act shall apply to Declarations of Homestead recorded or filed for registration pursuant to Section 1 or 1A of Chapter 188 of the General Laws before, on, or after the effective date of this act, but the increase in the amount of homestead protection for declarations recorded or filed for registration before the effective date of this act shall not have priority over, and shall be subordinate to, any lien, right or interest recorded or filed for registration before the effective date of this act."*

D. How Long Does an Elderly or Disabled Person's Estate of Homestead Last?

1. An Elderly or Disabled Person's Homestead will terminate in the following circumstances:
 - a. sale or transfer of the property during the declarant's lifetime;
 - b. sale or transfer of the declarant's interest in the property during the declarant's lifetime;
 - c. upon the death of the surviving declarant;
 - d. by deed, signed by the declarant, and conveying the property subject to the homestead;
 - e. by release of the homestead estate, duly signed, sealed and acknowledged by the declarant, and recorded in the Registry of Deeds for the county or district in which such estate is located.

E. If an Individual Declares an Elderly or Disabled Person's Homestead, Is that Individual Also Eligible for a Regular Homestead?

M.G.L. c 188, Section 2 provides that "the acquisition of a new estate of homestead shall defeat and discharge any such previous estate."

Thus, a later homestead declaration appears to terminate an earlier declaration by operation of law.

F. May Several Elderly or Disabled Persons (e.g. Husband and Wife) Who Have an Ownership Interest in Their Principal Residence Each Claim An Elderly or Disabled Persons Homestead?

Yes, the 2000 amendments to M.G.L. c 188, s.1A provide that "each individual having an ownership interest in real property which serves as that individual's residence and who qualifies under the provisions of this section shall, upon filing of an Elderly or Disabled Person's Declaration of Homestead Protection, be eligible for protection of such ownership interest up to a maximum amount of \$300,000 per individual, regardless of whether such declaration is filed individually or jointly with another." (emphasis added). Thus, it appears that a husband and wife or other single or married persons with an ownership interest in real estate occupied or intended to be occupied as their principal residence who are eligible as Elderly or Disabled Person's and comply with the statute may each file and obtain up to \$300,000 of protection on that residence.

HOMESTEADS

C.188.1

s. 1. Right to acquire; exemptions; definitions

An estate of homestead to the extent of \$300,000 in the land and buildings may be acquired pursuant to this chapter by an owner or owners of a home or one or all who rightfully possess the premise by lease or otherwise and who occupy or intend to occupy said home as a principal residence. Said estate shall be exempt from the laws of conveyance, descent, devise, attachment, levy on execution and sale for payment of debts of legacies except in the following cases:

- (1) sale for taxes;
- (2) for a debt contracted prior to the acquisition of said estate of homestead;
- (3) for a debt contracted for the purchase of said home;
- (4) upon an execution issued from the probate court to enforce its judgment that a spouse pay a certain amount weekly or otherwise for the support of a spouse or minor children;
- (5) where buildings on land not owned by the owner of a homestead estate are attached, levied upon or sold for the ground rent of the lot whereon they stand.
- (6) upon an execution issued from a court of competent jurisdiction to enforce its judgment based upon fraud, mistake, duress, undue influence or lack of capacity.

For the purposes of this chapter, an owner of a home shall include a sole owner, joint tenant, tenant by the entirety or tenant in common; provided, that only one owner may acquire an estate of homestead in any such home for the benefit of his family; and provided further, that an estate of homestead may be acquired on only one principal residence for the benefit of a family. For the purposes of this chapter, the word "family" shall include either a parent and child or children, a husband and wife and their children, if any, or a sole owner.

Amended by St.1939, .32.s.1: St.1970, c. 119.s.1: St.1973, c.487.s.1: St.1974.c. 750.s.1:
St.1975. c.407.s.1: St.1977, c.791.s.1: St.1978, c. 392, s.1: St.1979, c. 756, s.1: St.1983, c. 156:
St.1983, c. 220: St.1984, c.189, s.147: St.1985, c. 623: St.1989, c. 475.s.1.

¹ So in enrolled bill.

s.1A. Elderly or disabled persons; protection from attachment or seizure

The real property or mobile home of persons sixty-two years of age or older, regardless of marital status, or of a disabled person or persons, as herein defined, shall be protected against attachment, seizure or execution of judgment to the extent of \$300,000; provided, however, that such person has filed an elderly or disabled person's declaration of homestead protection as provided in section two; and provided, further, that such person occupies or intends to occupy such real property or mobile home as his principal residence. A disabled person's declaration of homestead protection shall be accompanied by either of the documents referred to in the second paragraph of this section.

For the purposed of this section, a disabled person is defined as an individual who has any medically determinable permanent physical or mental impairment which would meet the disability requirements for supplemental security income under the provisions of 42 USC 1382c(a)(3)(A) and (C), which are in effect at the time of filing. An original or certified copy of a disability award letter

issued to the person by the United States Social Security Administration; or a letter signed by a licensed physician registered with the Massachusetts Board of Registration in Medicine certifying that the person meets the disability requirements stated in 42 USC 1382c(a)(3)(A) and (C), which are in effect at the time of filing, shall be recorded or filed, whichever is appropriate, with a disabled person's declaration of homestead protection.

Each individual having an ownership interest in the real property or mobile home which serves as that individual's principal residence and who qualifies under the provisions of this section shall, upon filing of an elderly or disabled person's declaration of homestead protection, be eligible for protection of such ownership interest up to a maximum amount of \$300,000 per individual, regardless of whether such declaration is filed individually or jointly with another.

The following shall be exempt from the provisions of this section: federal, state and local taxes, assessments, claims and liens; first and second mortgages held by financial institutions or others; any and all debts, encumbrances or contracts existing prior to the filing of the declaration; an execution issued from the probate court to enforce its judgment that a spouse pay a certain amount weekly or otherwise for the support of a spouse or minor children; where buildings on land not owned by the owner of a homestead estate are attached, levied upon or sold for the ground rent of the lot whereon they stand.

The elderly or disabled person's estate or claim of homestead shall be terminated upon the sale or transfer of the real property or mobile home during the declarant's lifetime or upon the sale or transfer of the declarant's interest in the real property or mobile home during the declarant's lifetime or upon the death of the surviving declarant. An elderly or disabled person's estate of homestead created by this section shall be terminated during the lifetime of the declarant by deed conveying the property in which such an estate of homestead exists signed by the declarant; or by a release of the elderly or disabled person's estate of homestead, duly signed, sealed and acknowledged by the declarant, and recorded in the registry of deeds for the county or district in which such real estate is located; or by a release of the elderly or disabled person's claim of homestead, duly signed, sealed and acknowledged by the declarant, and filed in the city or town clerk's office in the city or town in which the mobile home is located; or pursuant to section two.

Section 2. Said chapter 188 is hereby further amended by striking out section 2, as appearing in the 1988 Official Edition, and inserting in place thereof the following section:-

Section 2. To acquire an estate of homestead in real property, the fact that it is designed to be held as such shall be set forth in the deed of conveyance by which the property is acquired; or, after the title has been acquire, such design may be declared by a writing duly signed, sealed and acknowledged and recorded in the registry of deeds for the county or district in which the property is situated. To acquire a claim of homestead in a mobile home, the fact that it is designed to be held as such shall be set forth in a writing duly signed, sealed and acknowledged and filed at the city or town clerk's office.

Added by St. 1987, c. 194. Amended by St. 1988. C. 199,s.38; St. 1989 c. 475.s.2; St. 1990. c. 492.s.1.